

BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
WASHINGTON, D.C. 20590

DEPT. OF TRANSPORTATION  
DOCKETS

08 JAN-3 PM 4:43

109926

In the Matter of

AMERICAN SOCIETY OF TRAVEL AGENTS, INC.

and

JOSEPH L. GALLOWAY

Complainants

v.

UNITED AIRLINES, INC., AMERICAN AIRLINES, INC.,  
DELTA AIRLINES, INC., NORTHWEST AIRLINES, INC.,  
CONTINENTAL AIRLINES, INC., US AIRWAYS, INC.,  
TRANS WORLD AIRLINES, INC., AMERICA WEST  
AIRLINES, INC., ALASKA AIRLINES, INC., AMERICAN  
TRANS AIR, HORIZON AIR INDUSTRIES, INC.,  
MIDWEST EXPRESS, INC., AIR CANADA, KLM ROYAL  
DUTCH AIRLINES, TACA INTERNATIONAL  
AIRLINES, INC. and AIR FRANCE

Respondents

Docket OST-99-6410-19

Accepted  
Betsy Wolf

ANSWER OF RESPONDENT AMERICAN TRANS AIR, INC.

Communication with respect to this document should be addressed to:

J.C. Buehler, Esquire  
Buehler Atkins Associates  
PO Box 40924  
747 East 86<sup>th</sup> Street, Suite C  
Indianapolis, Indiana 46240-0924  
(317) 253-8686  
(317) 253-9371 Fax

Brian T. Hunt, Esquire  
General Counsel  
American Trans Air, Inc.  
PO Box 51609  
Indianapolis, Indiana 46251  
(317) 240-7000  
(317) 240-7091 Fax

December 10, 1999

The Complaint fails to present any basis on which the Secretary could find unfair competition in the acts alleged. There are no facts asserted to support a claim of concerted

action by the carriers under the Sherman Act. Complainants' suggestion of "predatory intent" is unfounded and unsupported.<sup>1</sup>

ATA did not act either unilaterally or in concert with any other carrier to eliminate travel agents. Complainants' characterization of ATA's relationship with travel agents as competitive is misplaced; ATA takes affirmative steps to foster good and beneficial relationships with travel agencies and will continue to do so.

### **ATA Commission Policies**

ATA must remain competitive in the marketplace. Good business practice requires the company to be vigilant as to cost control and cost advantages that directly impact its ability to provide low cost air transportation to the consumer in its markets.

Complainants argue against inevitably changing market forces and practices. As they correctly point out, the purpose of enforcing Section 411 in the post-CAB period is "to protect consumers from air carrier practices."<sup>2</sup> However, the steady increase in e-commerce marketing and ticketing and the expansion of the Internet require air carriers including ATA to adjust marketing strategies and distribution practices to effectively control costs. The practices which complainants outline are neither anticompetitive nor injurious to the consumers' interests. On the contrary, the Internet as an "apparent alternative to distribution through travel agencies"<sup>3</sup> allows the consumer to seek competitive pricing through airline-operated Web sites or other Web sites that offer, *inter alia*, fare comparison searches and public bidding. The increase of direct electronic marketing is a growing, viable market force to which ATA or any carrier must respond in order to remain competitive in

---

<sup>1</sup> Complaint, 7

<sup>2</sup> *Id.*, 5

<sup>3</sup> *Id.*, 5

the highly competitive industry. The airlines' embrace of sales and marketing innovations is a recognition that today's consumer demands convenience, immediacy and directness.

The practices alleged to be anticompetitive are groundless.<sup>4</sup>

### **Conclusion**

American Trans Air, Inc. is not a major airline or CRS owner. Complainants' request for action is unsupported. The Complaint fails to allege any concerted or anticompetitive acts by ATA or any carrier justifying action by the Secretary. ATA made any corporate decisions affecting travel agency commissions on its own, based on the need to carefully monitor and control costs.

Respectfully submitted,



J.C. Buchler, #3743-49  
BUEHLER ATKINS ASSOCIATES  
PO Box 40924  
747 East 86<sup>th</sup> Street, Suite C  
Indianapolis, Indiana 46240-0924  
(317) 253-8686  
(317) 253-9371 Fax  
Counsel for American Trans Air, Inc.

---

<sup>4</sup> For example, ARC training and certification requirements are clearly not a scheme to increase the travel agencies' costs a few hundred dollars in order to force a departure from the ticket sales. Instead, the requirements insure minimum competency and qualifications in ARC/CRS practices ultimately benefiting the consumer.

## **COUNSEL LIST**

**Rosaling A. Knapp**  
**Deputy General Counsel**  
**Department of Transportation**  
**Nassif Building, Room 10428**  
**400 7<sup>th</sup> Street, SW**  
**Washington, D.C. 20590-0001**

**Air Canada**  
**Anita M. Mosner**  
**Steven Y. Quan**  
**GKMG Consulting Services, Inc.**  
**1054 31<sup>st</sup> Street, NW.**  
**Washington, D.C. 20007**

**Air Canada**  
**Geoffrey Pratt**  
**Air Canada Centre**  
**7373 Cote Vertu Boulevard West**  
**Saint-Laurent, Quebec**  
**Canada**

**Air France**  
**Michael F. Goldman**  
**Silverberg, Goldman & Bikoff**  
**1101 30<sup>th</sup> Street, N.W.**  
**Suite 120**  
**Washington, D.C. 20007**

**Alaska Airlines, Inc. &**  
**Horizon Air Industries, Inc.**  
**Marshall Sinick**  
**Squire, Sanders & Dempsey**  
**1201 Pennsylvania Avenue, NW**  
**Suite 500**  
**Washington, D.C. 20004**

**America West Airlines**  
**Joanne W. Young**  
**Barker & Hostetler**  
**1050 Connecticut Avenue, NW**  
**Washington, D.C. 20036-5304**

**American Airlines, Inc.**  
**Carl B. Nelson, Jr.**  
**Associate General Counsel**  
**1100 17<sup>th</sup> Street, NW**  
**Suite 600**  
**Washington, D.C. 20036**

**Continental Airlines, Inc.**  
**R. Bruce Kiener**  
**Crowell & Moring, LLP**  
**1001 Pennsylvania Avenue, NW**  
**Washington, D.C. 20004-2595**

**Delta Air Lines**

**Robert E. Cohn**

Shaw, Pittman, **Potts & Trowbridge**

2300 N **Street**, NW

**Washington**, D.C. 20037

**KLM Royal Dutch Airlines**

Paul Mifsud

**Vice President, Government**

**& Legal Affairs-USA**

2501 M **Street**, NW

**Washington**, D.C. 20037

**Midwest Express**

**Robert P. Silverberg**

Silverberg, **Goldman & Bikoff**

1101 30<sup>th</sup> **Street**, NW

**Suite 120**

**Washington**, D.C. 20007

**Northwest Airlines, Inc.**

Elliot M. Seiden

**Vice President, Law & Government Affairs**

**David G. Mishkin, Vice President, International**

**& Regulatory Affairs**

901 15<sup>th</sup> **Street**, N.W., **Suite 310**

**Washington**, D.C. 20005

**TACA International**

**Robert Papkin**

**James V. Dick**

**Squire, Sanders & Dempsey, LLP**

1201 **Pennsylvania Avenue**, NW

**Washington**, D.C. 20004

**Trans World Airlines, Inc.**

**Kathleen A. Soled**

**Senior Vice President & General Counsel**

**One City Centre 18<sup>th</sup> Floor**

515 N. 6<sup>th</sup> **Street**

**St. Louis, MO 63101**

**United Airlines**

**Jeffrey A. Manley**

Kirkland & Ellis

655 15<sup>th</sup> **Street**, N.W.

**Washington**, D.C. 20005

**US Airways, Inc.**

**Lawrence M. Nagin,**

**Executive Vice President, Corporate**

**Affairs & General Counsel**

**Crystal Park Four**

2345 **Crystal Drive**

**Arlington, VA 22227**